



JAMES R. HOFFA

MUHAMMAD ALI

... win new court hearings

## Security Bugging' Left Open by Court

By John P. MacKenzie 3/27/69

The Supreme Court made clear yesterday that the legality of electronic eavesdropping in "foreign intelligence" cases is a wide-open issue. One of its more conservative members criticized the Justice Department for suggesting last week that the Court had condemned

the practice.

In a day filled with new action on wiretapping and electronic eavesdropping controversies, the Court:

• Rejected without comment the Government's petition for a rehearing of the Court's March 10 ruling that defendants, even in spy cases, are entitled to transcripts of their conversations on their premises, that are overheard by illegal eavesdropping.

dropping.

• Released a concurring opinion by Justice Potter Stewart declaring that it "should be entirely clear to any careful reader" of the March 10 opinions that the Court was not passing judgment on national security

wiretaps.

Announced that some Issues, including in many cases
the legality or illegality of the
eavesdropping, may be handled by trial judges in chambers without requiring wholesale disclosure of information
to the defense.

See BUG, A7, Col. 1

## on Eavesdr

BUG, From A1

· Sent back to lower courts the cases of James R. Hoffa, tening device. Muhammad Ali (Cassius Clay)

And two dozen other conviction intelligence eavesdrop
taught is uninecessary.

Said is uninecessary.

years of experience here have well — the statement that the most care the full-disclosure require-Muhammad Ali (Cassius Clay) ed persons for hearings on ping reasonable and legal but fully written opinions are not ment might not apply to the whether the admitted eavestable and legal but that the Court's decision "applied in their cases was illegal and whether the Government must choose between sumption that the electronic cerned."

The property whether the decision plant always carefully read—even threshold decision judges must make about whether the eavesdropping was illegal.

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The property whether the cases was illegal and whether the Government must choose between the court's decision always carefully read—even threshold decision judges must make about whether the eavesdropping was illegal.

The property was always carefully read—even threshold decision judges must make about whether the eavesdropping was illegal. ment must choose between surveillance involved in gathords and dropping the prosecu-formation was illegal."

· Ruled that its December, retroactively, thereby letting stand convictions obtained by vited to argue that they were such methods before Decem- not" illegal, ber, 1967.

The Court's March 10 rul. Transcript Cited ings prompted Solicitor General Erwin N. Griswold last the transcript of oral argu-Full Disclosure week to seek reconsideration ment last October in which He hinted that court-ordered Griswold had offered this condisclosures would require such cession. Thus the question scribed as demanding full disciplinations as whether such surveillance was the wiretapping of foreign embarrassies, and that rather than art said, is left for future was not for judges alone to ligence cases with the applications of the surveillance was not for judges alone to ligence cases with the applications of the surveillance was not for judges alone to ligence cases with the applications of the surveillance was not for judges alone to ligence cases with the applications of the surveillance was not for judges alone to ligence cases with the applications of the surveillance was not for judges alone to ligence cases with the applications of the surveillance was not for judges alone to ligence cases with the applications of the surveillance was not for judges alone to ligence cases with the applications of the surveillance was not for judges alone to ligence cases with the applications are surveillance was not for judges alone to ligence cases with the applications are surveillance was not for judges alone to ligence cases with the applications are surveillance was not for judges alone to ligence cases with the applications are surveillance was not for judges alone to ligence cases with the applications are surveillance was not for judges alone to ligence cases with the applications are surveillance was not for judges alone to ligence cases with the applications are surveillance was not for judges alone to ligence cases with the applications are surveillance was not for judges alone to ligence cases with the applications are surveillance was not for judges alone to ligence cases with the applications are surveillance was not for judges alone to ligence cases with the surveillance was not for judges alone to ligence cases with the surveillance was not for judges alone to ligence cases with the surveillance was not for judges alone to ligence cases with the surveillance was not for judges alone to ligence cases with the surveillance was not surveillance this, the Government cases. would have to drop criminal Since this should have been relevant,

though he was repeatedly in-

Stewart cited three places in their case.

prosecutions of persons who clear to a careful reader, merely "stumbled into" a lissemant concluded sarcastic ceived yesterday, the Justice Cally, perhaps "what I have said is unnecessary. But 10 concession from the Court as

Griswold had argued that disclosing the eavesdrop recering foreign intelligence inlogs and tape recordings of Ali and Hoffa cases are reelectronic eavesdropping turned to lower courts, the should be turned over first to Government will be free to Justice Stewart said the should be turned over first to Government will be free to Court did indeed act on that trial judges to screen out "irargue directly to trial judges to screen out the trial judges to screen out 1967, decision requiring court did indeed act on that assumption since Griswold relevant" material. But the concern for microphones that do not physically trespass on a premises will not be applied to the argument "al. tran judges to screen out in argue directly to trial judges to screen out in argue directly to tria that to give the trial judge the the whole job might deprive the defendant of a chance to show faced with its disclose-or-disthat Federal agents used ille- miss choice. gally obtained "leads" to build

It appeared that when the judge finds illegality would the Government be

Any one of a number of pending cases, including Ali's conviction and five-year pris-The decision has been develicle for testing the Govdetermine what matter was proval of the Attorney General.